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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,620	02/22/2002	James A. Stares	52643-00335USPT	4460
26231	7590	01/23/2004	EXAMINER	
FISH & RICHARDSON P.C. 5000 BANK ONE CENTER 1717 MAIN STREET DALLAS, TX 75201			FOX, JOHN C	
		ART UNIT	PAPER NUMBER	
		3753		
DATE MAILED: 01/23/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	10/082620		
Examiner	fpx		
	Group Art Unit	3753	

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

Responsive to communication(s) filed on 1-9-04

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

Claim(s) 2-10, 12-24, 26-28 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 2-10, 12-24, 26-28 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

## Office Action Summary

Art Unit: 3753

This action is responsive to the communication filed January 9, 2004.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2-7, 10, 12-15 are rejected under 35 U.S.C. §102(b) as being anticipated by Kruschik. Kruschik shows a valve having an eccentric cage 5, 6, 7, 8, 9, 10, 11, 12 and an annular chamber 18, the elements 8, 9 and 12 being angled towards the right in Figure 2 and the walls of the ports "passing" straight through the wall of the cage.

Kruschik is similar to GB '060 applied previously. Applicant's arguments regarding directing of flow are wholly unconvincing. . Looking at Figure 2, only the port 30a is pointed at the passage 18. Every other port is pointed generally outwardly and not toward the passage 18 or any other port. If the claim language is an accurate description of Figure 2 then it is an accurate description of Kruschik, and Kruschik properly anticipates the claims.

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Claims 6, 8-9, 14, 16-17, 22, 24, 27-28 are rejected under 35 U.S.C. §102(b) as being anticipated by Barr. Barr shows a valve with inlet 8, outlet 9, cage 16 with lateral ports 30, plug 15 and chamber 7 with a larger area adjacent the outlet than opposite the outlet. The upper and lower segments of the cage shown in Figure 2 are read as triangular flow splitters in that they are generally triangular and split the flow.

Claim 26 is rejected under 35 U.S.C. § 103 as being unpatentable over Barr in view of Kruschik. Barr shows the claimed valve except for different sized ports. Kruschik shows a valve which can have either the same sized ports or different sized ports. It would have been obvious for one of ordinary skill in the art to have used such different sized ports in the valve of Barr to modify the flow metering, for example.

Claims 18-23 are rejected under 35 U.S.C. § 103 as being unpatentable over Kruschik in view of JP 114,066. Kruschik shows the claimed invention except for have port walls which curve. JP 114,066 shows a similar valve with straight port walls for directing the flow of fluid. It would have been obvious for one of ordinary skill in the art to have used

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such straight walls as taught by JP 114,066 in the valve of Kruschik to minimize manufacturing costs, for example.

The Prior Art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Examiner Fox at (703) 308-2595 or John.Fox@uspto.gov. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861. The fax number for TC 3700 is 703-872-9302. For responses after final the fax number is 703-872-9303. The Supervisory Primary Examiner for Art Unit 3753 is John Rivell who can be reached at (703) 308-2599 or at John.Rivell@uspto.gov.



JOHN FOX  
PRIMARY EXAMINER  
ART UNIT 3753

jcf

January 16, 2004